

**Federal Defenders
OF NEW YORK, INC.**

Southern District
81 Main Street, Suite 300
White Plains, N.Y. 10601
Tel: (914) 428-7124 Fax: (914) 997-6872

David E. Patton
*Executive Director
and Attorney-in-Chief*

Susanne Brody
*Attorney-in-Charge
White Plains*

December 21, 2020

The Honorable Cathy Seibel
United States District Court
Southern District of New York
300 Quarropas Street
White Plains, New York 10601

Re: United States v. Hustis (20 Cr 331) (CS)

Dear Honorable Seibel:

I am writing to ask that Your Honor allow for two temporary modifications to the terms of Mr. Hustis' release. Specifically, I ask that the terms of his "home detention" be modified to allow Mr. Hustis to attend two Christmas related events. First, I ask that Your Honor permit Mr. Hustis to attend mass on Christmas Eve at his church, which is located in Cold Spring, New York.¹ Second, I ask that Mr. Hustis be allowed to visit his grandmother's house in Cold Spring, New York on Christmas day. If the Christmas Eve travel is approved, Mr. Hustis would leave his home on December 24, 2020 at 8:30pm and he would return to his home by 11:00pm. If the Christmas travel is approved, Mr. Hustis would leave his home on December 25, 2020 at 1:30pm and he would return to his home by 6:00pm. Of course, Mr. Hustis will abide by all applicable COVID-19 precautions during the mass, the visit to his grandmother's house and related travel.

I have communicated with A.U.S.A. Nicholas Bradley and he does not object to this request. I have also spoken to Pretrial Officer Leo Barrios, and he does not object to this request.

Thank you very much for your consideration.

Sincerely,

Benjamin Gold
Assistant Federal Defender

cc: AUSA Nicholas Bradley (via e-mail and ECF)
Pretrial Officer Leo Barrios (via e-mail)

¹ This request is consistent with the original terms of Mr. Hustis' release, which permits Mr. Hustis to attend religious services. See Order Setting Conditions of Release, Page 3 (attached).

UNITED STATES DISTRICT COURT
for the
Southern District of New York

United States of America)
v.)
Charles Hustis) Case No. 19 MJ 11740

Defendant)

ORDER SETTING CONDITIONS OF RELEASE

IT IS ORDERED that the defendant's release is subject to these conditions:

- (1) The defendant must not violate federal, state, or local law while on release.
- (2) The defendant must cooperate in the collection of a DNA sample if it is authorized by 42 U.S.C. § 14135a.
- (3) The defendant must advise the court or the pretrial services office or supervising officer in writing before making any change of residence or telephone number.
- (4) The defendant must appear in court as required and, if convicted, must surrender as directed to serve a sentence that the court may impose.

The defendant must appear at: 300 Quarropas Street, White Plains, New York, 10601

Place

on _____

Date and Time

If blank, defendant will be notified of next appearance.

- (5) The defendant must sign an Appearance Bond, if ordered.

ADDITIONAL CONDITIONS OF RELEASE

IT IS FURTHER ORDERED that the defendant's release is subject to the conditions marked below:

- () (6) The defendant is placed in the custody of:

Person or organization _____

Address (*only if above is an organization*) _____

City and state _____ Tel. No. _____

who agrees to (a) supervise the defendant, (b) use every effort to assure the defendant's appearance at all court proceedings, and (c) notify the court immediately if the defendant violates a condition of release or is no longer in the custodian's custody.

Signed: _____
Custodian _____ Date _____

- (X) (7) The defendant must:

- (X) (a) submit to supervision by and report for supervision to the Pretrial Services, telephone number _____, no later than _____.
- () (b) continue or actively seek employment.
- () (c) continue or start an education program.
- (X) (d) surrender any passport to: Pre-trial services
- (X) (e) not obtain a passport or other international travel document.
- (X) (f) abide by the following restrictions on personal association, residence, or travel: Travel restricted to EDNY/SDNY
- (X) (g) avoid all contact, directly or indirectly, with any person who is or may be a victim or witness in the investigation or prosecution, including: _____
- (X) (h) get medical or psychiatric treatment: continue with mental health treatment
- () (i) return to custody each _____ at _____ o'clock after being released at _____ o'clock for employment, schooling, or the following purposes: _____
- () (j) maintain residence at a halfway house or community corrections center, as the pretrial services office or supervising officer considers necessary.
- (X) (k) not possess a firearm, destructive device, or other weapon.
- (X) (l) not use alcohol (X) at all () excessively.
- () (m) not use or unlawfully possess a narcotic drug or other controlled substances defined in 21 U.S.C. § 802, unless prescribed by a licensed medical practitioner.
- () (n) submit to testing for a prohibited substance if required by the pretrial services office or supervising officer. Testing may be used with random frequency and may include urine testing, the wearing of a sweat patch, a remote alcohol testing system, and/or any form of prohibited substance screening or testing. The defendant must not obstruct, attempt to obstruct, or tamper with the efficiency and accuracy of prohibited substance screening or testing.
- () (o) participate in a program of inpatient or outpatient substance abuse therapy and counseling if directed by the pretrial services office or supervising officer.
- () (p) participate in one of the following location restriction programs and comply with its requirements as directed.
- () (i) **Curfew.** You are restricted to your residence every day () from _____ to _____, or () as directed by the pretrial services office or supervising officer; or
- (X) (ii) **Home Detention.** You are restricted to your residence at all times except for employment; education; religious services; medical, substance abuse, or mental health treatment; attorney visits; court appearances; court-ordered obligations; or other activities approved in advance by the pretrial services office or supervising officer; or
- () (iii) **Home Incarceration.** You are restricted to 24-hour-a-day lock-down at your residence except for medical necessities and court appearances or other activities specifically approved by the court.
- (X) (q) submit to location monitoring as directed by the pretrial services office or supervising officer and comply with all of the program requirements and instructions provided.
- () You must pay all or part of the cost of the program based on your ability to pay as determined by the pretrial services office or supervising officer.
- (X) (r) report as soon as possible, to the pretrial services office or supervising officer, every contact with law enforcement personnel, including arrests, questioning, or traffic stops.
- (X) (s) submit to a urinalysis upon release as directed and if the results return positive for an illicit substance, then he be subject also to drug testing & treatment as directed by Pretrial Services.

Page 3 of 4

Pretrial Services must notify Defendant's employer and any school within 2 miles of Defendant's home of Defendant's arrest and charge. Defendant is released on his own signature to a \$150,000 personal recognizance bond, and must secure signatures of 2 financially responsible persons by no later than December 20, 2019. Defendant may leave home for regular employment, to visit court, to visit Pretrial Services (PS), for his own medical/dental needs, and religious services. His schedule must be communicated and approved by PS. Defendant may self-install electronic monitoring device. Defendant must submit international travel documents by 12/20/2019, and is forbid for submitting any additional application. A positive test to the urinalysis sample will result in drug treatment as needed. Defendant must surrender any/all devices capable of internet access. Defendant's Mother's iPad is to be maintained in a secured capacity. Defendant must refrain from any internet access and computer use of any kind. All wi-fi in Defendant's home must be turned off. Defendant cannot access any pornographic material. Defendant must refrain from any communication with minors. Defendant must refrain from loitering near any place frequented by minors. Defendant must refrain from using any electronic equipment. Defendant can have phone that doesn't have internet access. Defendant must continue with mental health treatment, under supervision of PS. Defendant must sign permission for PS to communicate with mental health provider. Defendant must cooperate with mental health treatment provider. Defendant's curfew is 9:30 PM.

ADVICE OF PENALTIES AND SANCTIONS

TO THE DEFENDANT:

YOU ARE ADVISED OF THE FOLLOWING PENALTIES AND SANCTIONS:

Violating any of the foregoing conditions of release may result in the immediate issuance of a warrant for your arrest, a revocation of your release, an order of detention, a forfeiture of any bond, and a prosecution for contempt of court and could result in imprisonment, a fine, or both.

While on release, if you commit a federal felony offense the punishment is an additional prison term of not more than ten years and for a federal misdemeanor offense the punishment is an additional prison term of not more than one year. This sentence will be consecutive (*i.e.*, in addition to) to any other sentence you receive.

It is a crime punishable by up to ten years in prison, and a \$250,000 fine, or both, to: obstruct a criminal investigation; tamper with a witness, victim, or informant; retaliate or attempt to retaliate against a witness, victim, or informant; or intimidate or attempt to intimidate a witness, victim, juror, informant, or officer of the court. The penalties for tampering, retaliation, or intimidation are significantly more serious if they involve a killing or attempted killing.

If, after release, you knowingly fail to appear as the conditions of release require, or to surrender to serve a sentence, you may be prosecuted for failing to appear or surrender and additional punishment may be imposed. If you are convicted of:

- (1) an offense punishable by death, life imprisonment, or imprisonment for a term of fifteen years or more – you will be fined not more than \$250,000 or imprisoned for not more than 10 years, or both;
- (2) an offense punishable by imprisonment for a term of five years or more, but less than fifteen years – you will be fined not more than \$250,000 or imprisoned for not more than five years, or both;
- (3) any other felony – you will be fined not more than \$250,000 or imprisoned not more than two years, or both;
- (4) a misdemeanor – you will be fined not more than \$100,000 or imprisoned not more than one year, or both.

A term of imprisonment imposed for failure to appear or surrender will be consecutive to any other sentence you receive. In addition, a failure to appear or surrender may result in the forfeiture of any bond posted.

Acknowledgment of the Defendant

I acknowledge that I am the defendant in this case and that I am aware of the conditions of release. I promise to obey all conditions of release, to appear as directed, and surrender to serve any sentence imposed. I am aware of the penalties and sanctions set forth above.

Defendant's Signature

White Plains, New York

City and State

Directions to the United States Marshal

- The defendant is ORDERED released after processing.
- The United States marshal is ORDERED to keep the defendant in custody until notified by the clerk or judge that the defendant has posted bond and/or complied with all other conditions for release. If still in custody, the defendant must be produced before the appropriate judge at the time and place specified.

Date: 12/16/2019

Hon. Lisa Margaret Smith, U.S.M.J.

Printed name and title